

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

**SUPERSEDING INDICTMENT FOR VIOLATIONS OF THE FEDERAL
CONTROLLED SUBSTANCES AND THE FEDERAL GUN CONTROL ACTS**

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 09-168
v.	*	SECTION: "S"
BRANDON BERRY	*	VIOLATION: 21 U.S.C. § 841(a)(1)
		21 U.S.C. § 841(b)(1)(D)
	*	18 U.S.C. § 922(g)(1)
		18 U.S.C. § 924(a)(2)
	*	18 U.S.C. § 924(c)(1)(A)
	*	

The Grand Jury charges that:

COUNT 1

_____ On or about March 24, 2009, in the Eastern District of Louisiana, the defendant, **BRANDON BERRY**, did knowingly and intentionally possess with the intent to distribute a quantity of marijuana, a Schedule I Drug Controlled Substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D). _____

COUNT 2

On or about March 24, 2009, in the Eastern District of Louisiana, the defendant, **BRANDON BERRY**, having been previously convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: a conviction on May 31, 2006 in the 24th Judicial District Court, Parish

of Jefferson, Case Number 05-5630, for simple burglary, in violation of LA-R.S. 14:62; did knowingly possess in and affecting commerce, a firearm, to wit: a Beretta Model 92FS, 9mm caliber pistol bearing serial number 404262; all in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT 3

_____ On or about March 24, 2009, in the Eastern District of Louisiana, defendant **BRANDON BERRY** did knowingly possess a firearm in furtherance of a drug trafficking crime as alleged in count 1, to wit: possession with the intent to distribute a quantity of marijuana, for which the defendant can be prosecuted in a court of the United States; all in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

NOTICE OF DRUG FORFEITURE

1. The allegations of Count 1 of this Superseding Indictment are realleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 21, United States Code, Section 853.

2. As a result of the offense alleged in Count 1, the defendant, **BRANDON BERRY**, shall forfeit to the United States pursuant to Title 21, United States Code, Section 853, any and all property constituting or derived from any proceeds the defendant obtained directly or indirectly as a result of the said violations and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violation alleged in Count 1 of this Superseding Indictment.

3. If any of the property subject to forfeiture pursuant to Paragraph 2, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 21, United States Code, Section 853.

NOTICE OF GUN FORFEITURE

1. The allegations of Counts 2 and 3 of this Superseding Indictment are realleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c).

2. As a result of the offenses alleged in Counts 2 and 3, defendant, **BRANDON BERRY**, shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28 United States Code, Section 2461, any firearm or ammunition, which was involved in or used in a knowing violation of Title 18, United States Code, Sections 922(g)(1) and 924(c)(1)(A), as alleged in Counts 2 and 3 of this Superseding Indictment.

3. If any of the property subject to forfeiture pursuant to Paragraph 2 of this Notice of Forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 924(c)(1)(A).

A TRUE BILL:

FOREPERSON

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New Orleans, Louisiana
October 8, 2009